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Charles A. Eldering

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TECHNOLOGY, PATENTS AND LICENSING, INC./PRIME
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EXAMINER

MANNING, JOHN

ART UNIT

PAPER NUMBER

2623

DATE MAILED: 07/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/031,142

Applicant(s)

ELDERING, CHARLES A.

Examiner

John Manning

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 117-199 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 117-199 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/12/04, 8/9/04, 7/1/02, 6/25/02</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 117-119, 121-124, 127-129, 131-133, 135-138, 143-144, 146-150, 153-156, 159-160, 162-164 and 196 are rejected under 35 U.S.C. 102(b) as being anticipated by Bryant et al. (US Pat no 5,652,615).

In regard to claim 117, Bryant discloses a method for inserting different advertisements into a program stream in order to generate multiple presentation streams and transmitting the multiple presentation streams to subgroups of destinations. The claimed limitations of "forming a group for the reception of signals for the telecom system", "forming a plurality of subgroups for the group", "assigning a subgroup address to each subgroup" and "assigning a subgroup address to each subgroup" are met by Figure 8 (See Col 6, Line 65 – Col 7, Line 17). The claimed limitation of "receiving a program stream" is met by the headend, central studio, or central office. The claimed limitation of "selecting one or more targeted advertisements for a first subgroup" is met by Figure 3. "FIG. 3 shows the composition of the broadcast signals according to a preferred embodiment of the invention. In FIG. 3, the broadcast signals are shown to be transported "downstream" from left to right. The "width" of the

stream components are a relative indication of bandwidth requirements. Composite broadcast signal 300 includes first and second program segment 310 and 320, e.g., "base" and "fill." It should be understood that the invention can also be worked with programs having more than two decoupled components. The segments are adjacently arranged in a temporal manner, substantially without overlap, and with the base and fill segments alternating. Generally, the base segments 310 are of a longer duration than the fill segments 320, however this is not required. Also, frequently the program content of the base segments is continuous, e.g., a movie, a sports cast, etc., and extending over a relatively long time period. The fill segments are generally short and disjoint, for example advertisements, station breaks, public notices, and the like" (Col 4, Lines 37-56). "Program segments 310 and 320, according to the invention, can be inserted or selected at points 110, 111, 120, 131, 140, 150, 160, 170 of the network 100. If the broadcast network is of the type which broadcasts directly from the satellite 120 to the CPE 170, the last insertion point in the downstream signaling path is the satellite uplink transmitter 111, and the discrimination point for segment selection is the STB 200." (Col 5, Lines 23-28). The claimed limitation of "assigning an advertisement identifier to each of the targeted advertisements" is met by Figure 3. "The different fill segments 320 can be separately identified. The identification process and manipulation of identification information during mixing can be complex, and are described in greater detail below" (Col 5, Lines 10-13). The claimed limitation of "creating a relationship between the subgroup address and the one or more advertising identifiers" is met by Figure 5 (See Col 6, Line 65 – Col 7, Line 17). The claimed limitation of "transmitting the program

stream and the targeted advertisements selected for the first subgroup to the first subgroup” is met by Figure 1, Item 170.

In regard to claim 118, the claimed “selecting one or more targeted advertisements for a second subgroup; and transmitting the program stream and the advertisements selected for the second subgroup to the second subgroup” is met by Figure 6 (See Col 6, Line 65 – Col 7, Line 17).

In regard to claim 119, the claimed “wherein said transmitting to the first subgroup and said transmitting to the second subgroup are performed simultaneously” reads on Figure 1, Item 170.

In regard to claim 121, see claim 117.

In regard to claim 122, the claimed “wherein the subgroups are based on cable nodes” is met by Figure 3 (See Col 5, Lines 23-39).

In regard to claim 123, the claimed “wherein the subgroups are formed by transmitting an MPEG signal over a cable television network” is met by Figure 1 (See Col 5, Lines 48-65; Col 6, Lines 46-51).

In regard to claim 124, the claimed “wherein the subgroups are based on demographic attributes” is met by Figure 2 and 8 (See Col 4, Lines 15-32; Col 8, Lines 49-52).

In regard to claim 127, the claimed “wherein said transmitting includes multiplexing the program stream and the selected target advertisements at a centralized point to create a presentation stream.” is met by Figure 4-6 (See Col 5, Lines 48-65; Col 6, Lines 46-51).

In regard to claim 128, the claimed “wherein said multiplexing is performed in real-time” is met by Figure 2 (See Col 4, Lines 10-20).

In regard to claim 129, the claimed “wherein the selected target advertisements are stored temporarily in a storage for insertion at a later time” is met by the disclosed use of MPEG stream, which is inherently temporarily stored.

In regard to claim 131, the claimed “wherein the program stream comprises one or more default advertisements and during multiplexing the default advertisements are substituted with the selected targeted advertisements” is met by Figure 8, where segment b is a default advertisement provided by BC 810.

In regard to claim 132, the claimed “inserting the selected targeted advertisements in the program stream at a client side” is met by Figure 3 (See Col 5, Lines 23-39).

In regard to claim 133, the claimed “wherein the client side is provided with the insertion time and the identification of the selected target advertisements” is met by Figure 2 (See Col 4, Lines 25-28).

In regard to claim 135, see claim 131.

In regard to claim 136, the claimed “wherein n program streams are combined with m advertisement streams resulting in p presentation streams, wherein p is greater than n” is met by Figure 8 (See Col 6, Line 65 – Col 7, Line 17).

In regard to claim 137, the claimed “wherein the program stream is transmitted as a first digital signal and the targeted advertisements are transmitted as a second digital signal” is met by Figure 2 (See Col 4, Lines 20-25).

In regard to claim 138, the claimed “wherein the first digital signal is transmitted to the whole group and the second digital signal is transmitted only to a subgroup” is met by Figure 8 (See Col 6, Line 65 – Col 7, Line 17).

In regard to claims 143-144, the claimed “wherein the signals are cable-based video signals” and “wherein the signals are broadcast-based video signals” are met by Figure 5 (See Col 5, Lines 14-20).

In regard to claim 146, the claimed “wherein the targeted advertisements are inserted into the program stream based on the advertisement identifiers” is met by Figure 8 (See Col 6, Line 65 – Col 7, Line 17).

In regard to claim 147, the claimed “wherein the insertion occurs at a centralized point” is met by the headend, central office, or central studio of Figure 1.

In regard to claim 148, the claimed “wherein the insertion occurs at a local end” is met by the STB 200 of Figure 1.

In regard to claims 149-150 and 153, see claims 117 and 127.

In regard to claim 154, see claim 122.

In regard to claim 155, see claim 123.

In regard to claim 156, see claim 124.

In regard to claim 159, see claim 128.

In regard to claim 160, see claim 129.

In regard to claim 162, see claim 131.

In regard to claim 163, see claim 136.

In regard to claim 164, see claim 117.

In regard to claim 196, see claim 117.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 130, 134, 139-142, 145, 161, 172-173, 177, 194 and 198 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bryant et al.

In regard to claims 130, 134 and 161, Bryant does not explicitly disclose at least one empty segment. However, one of ordinary skill in the art would recognize that Bryant's composite broadcast signal 300 could have a "Fill" segment with no commercial so as to provide targeted user video programs with no commercials.

In regard to claims 141, 142, 145, 172, and 192, the recited limitations are met by that discussed for claim 117, except Bryant fails to explicitly disclose the use of the Internet (IP). Official notice is taken that was notoriously well known in the art to use the Internet so as to give the user an alternative way to receive video broadcasting signals. Consequently, it would have been obvious to one of ordinary skill in the art to modify Bryant with the use of the Internet for the stated advantage.

In regard to claims 139 and 140, Bryant does not explicitly disclose that the first digital signal is sent over a first channel and the second digital signal is sent over a second channel. Official notice is taken that was notoriously well known in the art to have a first digital signal is sent over a first channel and a second digital signal is sent over a second channel so as to conserve bandwidth. Consequently, it would have been obvious to one of ordinary skill in the art to modify Bryant with a first digital signal is sent over a first channel and a second digital signal is sent over a second channel for the stated advantage.

In regard to claims 173, 177, 194 and 198, Bryant does not explicitly disclose the use of an advertisement server. Official notice is taken that was notoriously well known in the art to use an advertisement server so as to allow the target advertisement to be easily updated. Consequently, it would have been obvious to one of ordinary skill in the art to modify Bryant with an advertisement server for the stated advantage.

5. Claims 120, 152-153, 165-171, 175-176, 178-191, 193, 195, 197 and 199 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bryant et al. in view of Lakey et al. (US Pat No 6,078,954).

In regard to claims 120, 152, 153, 165, 175-176, 182 and 197, the recited limitations are met by that discussed for claim 117, except Bryant fails to explicitly disclose the use of Multicasting. Leakey teaches the use of Multicasting so as to provide the continuous multicasting of data wherein the data can include configure,

control and maintenance packets as well as informational data such as statistical data (Figure 3; Col 3, Lines 45-65; Col 4, Lines 50-61; Col 3, Lines 8-11). Consequently, it would have been obvious to one of ordinary skill in the art to modify Bryant with the use of Multicasting for the stated advantage.

In regard to claims 166 and 167 the claimed “wherein the transmission of the targeted advertisements to the first subgroup is a first multicast transmission and transmission of the targeted advertisements to the second subgroup is a second multicast transmission” and “wherein only those advertisements targeted for the first subgroup are transmitted to and received by the first subgroup and only those advertisements targeted for the second subgroup are transmitted to and received by the second subgroup” are met by Figure 8 of Bryant (See Col 6, Line 65 – Col 7, Line 17).

In regard to claim 168, the claimed “wherein the presentation of the targeted advertisements occurs before the program, at the beginning of the program, after the program, at the end of the program, or during the program” is met by Figure 3 of Bryant.

In regard to claim 169, the claimed “wherein the targeted advertisement presented to the first subgroup and the targeted advertisement presented to the second subgroup are presented to the client members of the respective subgroups at or about the same time within the program sequence” reads on Figure 1, Item 170.

In regard to claim 170 the claimed “wherein each subgroup represents a target market” is met by Figure 8 of Bryant (See Col 6, Line 65 – Col 7, Line 17).

In regard to claim 171, the claimed “wherein the subgroups are formed based on at least one attribute from a set of attributes consisting of: geographic, demographic,

psychographic, and preference attributes” is met by Figure 2 and 8 (See Col 4, Lines 15-32; Col 8, Lines 49-52).

Claim 178 is met by that discussed for claims 153, 165, 175, 182 and 197, expect the combined teaching fails to explicitly disclose use of a DOCSIS channel. Official notice is taken that was notoriously well known in the art to implement channels using the DOCSIS standard so as to allow interoperability. Consequently, it would have been obvious to one of ordinary skill in the art to modify the combined teaching with the use of the DOCSIS standard for the stated advantage.

In regard to claim 179 and 180, the claimed “inserting the targeted advertisements in the program stream at a client side” and “wherein the targeted advertisements are inserted into the program stream before the program is decoded” is met by the disclosed STB of Bryant.

In regard to claim 181, the claimed “wherein the client side is provided with the insertion time and the identification of the targeted advertisements” is met by Figure 2 (See Col 4, Lines 20-28).

In regard to claims 183 and 184, the claimed “wherein the transmission of the targeted advertisements to the first subgroup is a first multicast transmission and transmission of the targeted advertisements to the second subgroup is a second multicast transmission” and “wherein only those advertisements targeted for the first subgroup are transmitted to and received by the first subgroup and only those advertisements targeted for the second subgroup are transmitted to and received by the second subgroup” are met by Figure 8 of Bryant (See Col 6, Line 65 – Col 7, Line 17).

In regard to claim 185, the claimed “wherein the targeted advertisement presented to the first subgroup and the targeted advertisement presented to the second subgroup are presented to the client members of the respective subgroups at or about the same time within the program sequence” reads on Figure 1, Item 170.

In regard to claim 186, the claimed “wherein the insertion occurs at a centralized point” is met by the headend, central office, or central studio of Figure 1.

In regard to claim 187, the claimed “wherein said combining occurs at separate locations” is met by the disclosed STB of Bryant.

In regard to claims 188-189, the claimed “wherein said combining includes combining the targeted advertisements such that the temporal occurrence or sequence of the targeted advertisements with respect to the content material is one from a group consisting of: before the content material, after the content material, or during and within the content material” and “wherein the first set of targeted advertisements and the second set of targeted advertisements are combined with the content material at or about the same location within the content material sequence” is met by Figure 3 of Bryant.

In regard to claims 190-191, the claimed “wherein each subgroup represents a target market” and “wherein the subgroups are formed based on at least one attribute from a set of attributes consisting of: geographic, demographic, psychographic, and preference attributes” is met by Figure 2 and 8 (See Col 4, Lines 15-32; Col 8, Lines 49-52).

In regard to claim 193, the claimed “wherein the content material comprises one or more default advertisements and during said combining the default advertisements are substituted with the targeted advertisements” is met by Figure 8, where segment b is a default advertisement provided by BC 810.

In regard to claim 195, the claimed “wherein the subgroups are disjoint and contain no members in common” is met by Figure 8 of Bryant (See Col 6, Line 65 – Col 7, Line 17).

In regard to claim 199, the claimed “media players” are met by the disclosed STB.

6. Claims 125-126 and 157-158 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bryant et al. in view of Wilkins (US Pat No 5,446,919).

In regard to claims 125 and 157, Bryant fails to explicitly disclose matching viewers to advertisements based on psychographic information. Wilkins teaches the use of matching viewers to advertisements based on psychographic information so as to appeal to the tastes and moods of the targeted audience (Col 1, Lines 28-40; Col 4, Lines 10-41; Col 8, Lines 24-40). Consequently, it would have been obvious to one of ordinary skill in the art to modify Bryant with matching viewers to advertisements based on psychographic information for the stated advantage.

In regard to claims 126 and 158, Bryant fails to explicitly disclose matching viewers to advertisements based on brand usage. Wilkins teaches the use of matching

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viewers to advertisements based on brand usage so as to appeal to the tastes and moods of the targeted audience (Col 1, Lines 28-40; Col 4, Line 60 – Col 5, Line 25). Consequently, it would have been obvious to one of ordinary skill in the art to modify Bryant with matching viewers to advertisements based on brand usage for the stated advantage.

7. Claim 174 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bryant et al. in view of Pezzillo et al. (US Pat No 6,434,621).

In regard to claim 174, the recited limitations are met by that discussed for claim 117, expect Bryant fails to explicitly disclose Internet radio. Pezzillo teaches the use of Internet radio so as to allow a user with a computer system connected to the Internet to listen to the radio (Col 1, Lines 16-34; Col 6, Lines 25-54). Consequently, it would have been obvious to one of ordinary skill in the art to modify Bryant with Internet radio for the stated advantage.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Manning whose telephone number is 571-272-7352. The examiner can normally be reached on M-F: 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JM
June 24, 2006



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